

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 349 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NEW BANK OF INDIA

Versus

K NIKUNJKUMAR & 4

Appearance:

MR AC GANDHI for Petitioner

MR YN OZA for Respondent No. 1

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 09/05/2000

ORAL JUDGEMENT

1. The appellant- New Bank of India has filed this Appeal From Order challenging the order dated 18th October 1994 passed below application Ex.6 by the learned Chamber Judge, City Civil Court, Ahmedabad, whereby the learned judge directed the respondents- defendants to deposit Rs. 30 lacs within the period of 15 days from

the date of the order and on depositing the said amount with the bank for appropriation towards the dues, the order which is passed below Ex. 6 on 19th September 1991 will stand vacated. Even though at the request of the appellant, the said order was stayed till 28th October 1994, however, the court observed that the respondents will be at liberty to deposit the amount with the appellant bank.

2. On 28th October 1994, this Court admitted the appeal and on the same day, in Civil Application No. 440 of 1994 filed by the appellant, passed the following order:-

"Ad-interim relief in terms of para 5(A).

However, it shall be open to the respondents no. 2, 3 and 4 to (i) deposit Rs. 30 lacs in cash with the Punjab National Bank towards the suit claim and (ii) to make further deposit of Rs. 20 lacs with the said bank, latter deposit being subject to further orders of court furnishing bank guarantee for this amount. In case, the said respondents make deposits etc. as aforesaid, the amount of Rs. 30 lacs may be appropriated by the appellant towards the suit claim, and the sum of Rs. 20 lacs, if deposited shall be kept in a separate account by the said Punjab National Bank subject to further orders of this Court. In case, the respondents comply with both the options (i) and (ii) hereof, ad-interim relief shall stand vacated. "

On 25th July 1995, this Court, in the said application passed the following order:-

"As the condition has not been fulfilled, the ad-interim relief granted earlier is confirmed. The application is disposed of accordingly."

3. It is not in dispute that the respondents have deposited Rs. 30 lacs with the appellant bank which has been appropriated by the appellant bank towards its dues. The learned Counsel appearing for the respondents states that since the respondents have paid substantial amount of Rs. 30 lacs to the appellant bank towards its dues, for the payment of balance amount, it is not necessary to continue the prayer made in para 13(A) of the Notice of Motion. The learned Counsel, therefore, submits that the prayer made in para 13(B) be continued till the hearing and disposal of the suit. In my opinion, the contention advanced by the learned Counsel is having substance.

4. It is not in dispute that for claiming the balance amount, properties shown in para 13(B) are sufficient so far as the security of the appellant bank is concerned. In this view of the matter, the injunction granted with respect to the properties stated in para 13(A) stands vacated. However, in the injunction with respect to the properties stated in para 13(B) of the Notice of Motion is confirmed till the hearing and disposal of the suit.

In view of this direction, in my opinion, nothing further is required to be done in the matter. Hence, this Appeal From Order accordingly stands disposed of with no order as to costs.

Considering the dispute involved in the matter, in my opinion, the civil suits being Civil Suits No. 4861 of 1991 to 4881 of 1991 are required to be heard and decided expeditiously. The trial court shall make an endeavour to decide the same as expeditiously as possible and preferably within a year from today.

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